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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,351	01/27/2004	Andrea Grimmeisen	VO-554-CON	1069

7590 11/19/2004  
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EXAMINER

VASUDEVA, AJAY

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/765,351	Applicant(s) GRIMMEISEN, ANDREA	
	Examiner Ajay Vasudeva	Art Unit 3617	<i>Handwritten signature</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>filed 5/03/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION*****Specification***

1. In the preliminary amendment filed 1/27/2004, on page 1 of the Specification
  - Before the sentence "the title, insert the following heading and paragraph", change "before" to – after --.
  - After the sentence "U.S. Serial No. 10/009,626, which was filed on 0 1 April 2002", insert -- , now US Patent No. 6,682,372 B2 --.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
  - The inflow opening of the flow channel starting near the bow of the hull, as set forth in claims 4 and 9.
  - A remote control device, as set forth in claims 6 and 11. (A wireless transmission path should be shown as dash lines to indicate a wireless connection).
  - An plate or a flap for access to the underwater unit, as set forth in claims 7 and 12.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by

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the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities:

On line 2, before "user lies", change "an" to – a --.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, use of "the batteries...placed into a separate housing which is exchangeably installed in the hull" (emphasis provided) makes the claim indefinite. From the language used, it is not clear if it is just the batteries that are exchangeable, or if the entire battery housing is exchangeable.

It is recommended that the discussed limitation be changed to one of the following, whichever applicable, to impart clarity to the claim:

"the batteries...placed into a separate housing, the batteries being exchangeably installed in the hull" or "the batteries...placed into a separate housing, the housing being exchangeably installed in the hull"

A clarification and correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claim 1-3, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Kobayashi (US 5,462,460 A).

Kobayashi shows a motorized watercraft (figure 3), having a flow channel [69] extending between in the hull of the watercraft. A water screw [72] and electric motor [76] are housed in the flow channel. Although the battery housing is not exchangeable, at least the battery [63] is exchangeably positioned within a recess of the hull of the watercraft. The power supply cable [78] is considered equivalent to a control device for the electric motor, and is partially disposed in the flow channel.

8. Claims 1-5, 8-10 and 12, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Takura et al. (US 6,461,204 B1)..

Takura et al shows a motorized watercraft (figure 13), generally as claimed, having a flow channel [213] extending between the bow and the stern of the watercraft (column 11). A water screw [212] and electric motor [210] are housed in the flow channel.

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A battery [209] is housed in a battery housing (see figures 14 and 15), and the battery is exchangeably positioned with a recess of the hull of the watercraft. A valve [207] comprises a control device that can be used to control the motor. Applicant may note that by varying the opening of the valve, the back-pressure on the motor can be varied, which therefore will control certain operational aspects of the motor, such as its rotational speed.

#### ***Examiner's Observation***

9. Although Kobayashi or Takura et al. do not show exchangeable battery housings, it would have been obvious for one to make a provision under 35 USC 103(a) so that the battery housings could be replaced, if damaged, with a new housing. Such provision is considered as making the housings exchangeable.

10. Applicant is cautioned that the amended claims will be reviewed for double patenting issues with regard to the issued parent application.

#### ***Allowable Subject Matter***

11. Claims 6, 7 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

12. The prior art made of record in the attached PTO Form 892, but not yet relied upon, is considered pertinent to applicant's disclosure.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (703) 306-5992. The examiner can normally be reached on Monday-Friday 1:00 pm--5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva  
Examiner  
Art Unit 3617

  
AV

  
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